



A BILL FOR AN ORDINANCE

RELATING TO MAINTENANCE OF PRIVATE STREETS AND ROADS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to permit the city to maintain certain private streets and roads.

SECTION 2. Section 14-32.2, Revised Ordinances of Honolulu 1990 ("Surface maintenance"), is amended by amending subsection (a) to read as follows:

- "(a) Subject to the availability of appropriations, the department of [public works] facility maintenance may maintain by either remedial patching, resurfacing, or paving those portions of private, nondedicated and nonsurrendered streets and roads which have been determined by the [director and] chief engineer[,] of the department of facility maintenance, with the approval of the director of the department of transportation services and the director of the department of [land utilization,] planning and permitting, to meet the following criteria:
- (1) The street or road has not been dedicated or surrendered to the city or any other governmental entity, and is not otherwise owned by the city or any other governmental entity;
 - (2) The street or road is not maintained by any governmental entity other than the city pursuant to this article;
 - (3) The street or road is open to, serves, and benefits the general public;
 - (4) The street or road is not signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude access by the general public, in whole or in part, which may be through such means as signs indicating that the street or road is a "private" street or road, or any restrictions on parking which are not applicable to all persons except as otherwise provided by law;
 - (5) The street or road directly serves: (A) six or more parcels and at least six of the parcels served are owned by separate individuals or entities; (B) six or more residential structures where at least six of the structures served are owned by separate individuals or entities; or (C) a parcel of land which has one or more condominium buildings or apartment buildings which contain six or more condominium or apartment units;



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- (6) The street or road is not part of a cluster housing development, planned development, or similar type of development;
- (7) Maintenance of the street or road by the city will be practicable and safe;
- (8) The street or road is not a private street or road within the meaning of Chapter 22 or the rules and regulations adopted pursuant thereto;
- (9) The developer or subdivider of such street or road has not agreed to maintain such street or road in perpetuity;
- (10) An association of apartment owners or homeowners association does not maintain such street or road;
- [(10)] (11) Maintenance of the street or road surface is necessary to protect the safety of motorists, bicyclists, and pedestrians or is otherwise in the public interest; and
- [(11)] (12) The street or road does not suffer such design defects as to make use of the street or road hazardous to the general public.

If they wish a private street or road to be maintained by the city, the persons collectively owning a 60 percent or more interest in the fee title or an appropriate roadway easement in the street or road shall initiate and submit a written request to the [director and] chief engineer of the department of facility maintenance for the maintenance of the street or road. If the [director and] chief engineer of the department of facility maintenance determines that the private street or road satisfies the criteria set forth in this subsection, the [director and] chief engineer of the department of facility maintenance may, subject to the availability of appropriations, proceed to maintain the street or road, provided that the persons having the right to control the use of the street or road shall submit their written approval of the maintenance work. The persons having the right to control the use of the street or road shall agree to such terms, conditions and covenants as may be determined by the [director and] chief engineer of the department of facility maintenance to be for the convenience and protection of the city and the public, including the granting of necessary easements; provided that one of the conditions the persons having the right to control the use of the street or road shall agree to is the condition that they keep the street or road open to the general public for as long as the city maintains the street or road surface or for the period of time specified in the agreement, whichever is longer. The



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requirement for a written request, approval and agreement shall not apply, however, to a (i) street or road over which the department of [public works] facility maintenance exercises surface maintenance responsibilities on the day prior to the effective date of this article, or (ii) a street or road which the [director and] chief engineer[,] of the department of facility maintenance, with the approval of the director of the department of transportation services and the director of the department of [land utilization,] planning and permitting determines has been dedicated by implication to public use for roadway purposes; provided that nothing contained herein shall be construed as prohibiting the [director and] chief engineer of the department of facility maintenance from requiring a written approval and agreement for new maintenance work on streets or roads over which the department of [public works] facility maintenance exercises surface maintenance responsibilities on the day prior to the effective date of this article if the [director and] chief engineer of the department of facility maintenance determines that such an agreement is in the best interests of the city."

SECTION 3. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 14-37
BILL 61 (2014)

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SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

OCT 2 2014

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

[Handwritten Signature]
Deputy Corporation Counsel **DON S. KITAOKA**

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu

2014 OCT - 5 PM 3:00
C & C OF HONOLULU
CITY CLERK
RECEIVED

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 14-37

BILL 61 (2014)

Introduced: 10/02/14 By: STANLEY CHANG

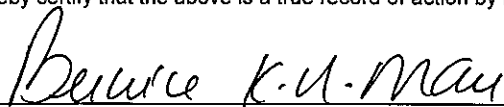
Committee: PUBLIC WORKS AND
SUSTAINABILITY

Title: A BILL FOR AN ORDINANCE RELATING TO MAINTENANCE OF PRIVATE STREETS AND ROADS.

Voting Legend: * = Aye w/Reservations

10/08/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON PUBLIC WORKS AND SUSTAINABILITY. 8 AYES: ANDERSON, CHANG, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. 1 NO: HARIMOTO.
10/15/14	PUBLIC WORKS AND SUSTAINABILITY	CR-304 – BILL REPORTED OUT COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
11/01/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER. NOTE: EFFECTIVE NOVEMBER 4, 2014, COUNCILMEMBER BREENE HARIMOTO, REPRESENTING COUNCIL DISTRICT VIII, RESIGNED FROM OFFICE. (Refer to Communication <u>CC-245</u>) NOTE: BRANDON ELEFANTE WAS SWORN IN AND TOOK OFFICE AS A MEMBER OF THE HONOLULU CITY COUNCIL ON WEDNESDAY, NOVEMBER 12, 2014 REPRESENTING DISTRICT VIII.
11/12/14	COUNCIL/PUBLIC HEARING	CR-304 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON PUBLIC WORKS AND SUSTAINABILITY. 8 AYES: ANDERSON, CHANG, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. 1 NO: ELEFANTE.
11/19/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
11/19/14	PUBLIC WORKS AND SUSTAINABILITY	CR-329 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
12/10/14	COUNCIL	CR-329 ADOPTED AND BILL 61 (2014) PASSED THIRD READING. 8 AYES: ANDERSON*, CHANG, FUKUNAGA, KOBAYASHI*, MANAHAN, MARTIN, MENOR*, PINE*. 1 NO: ELEFANTE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER

ORDINANCE NO. 14-37

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

CERTIFICATE

I hereby certify that on December 11, 2014, Bill 61 (2014) was presented to the Honorable Kirk Caldwell, Mayor of the City and County of Honolulu, for his approval or otherwise; and that on December 22, 2014, the Mayor returned said Bill without his signature; therefore, pursuant to Section 3-203 of the Revised Charter of Honolulu, said Bill 61 (2014) became a duly enacted ordinance on December 22, 2014.

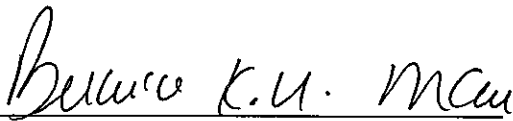
Dated, Honolulu, State of Hawaii, this 23rd day of December, 2014.

CITY COUNCIL

By

ERNEST Y. MARTIN
Chair and Presiding Officer

ATTEST:


BERNICE K. N. MAU
City Clerk